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SO. DIST. OF GA.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
STATESBORO DIVISION

UNITED STATES OF AMERICA)
)
)
v.) CR 605-006
)
PAUL ASHLEY HARDEN,)
)
Defendant.)

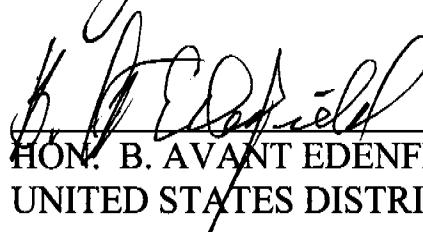
ORDER

Paul Ashley Harden has filed a motion seeking an extension on the one year limitations period of 28 U.S.C. §2255 so that he can file a §2255 motion following a March 31, 2008 *sua sponte* sentence reduction by this Court under Amendment 706 and 18 U.S.C. §3582(c)(2). [Doc 68]

In 2005, Harden pleaded guilty to one count of possession with intent to distribute a controlled substance in violation of 21 U.S.C. §841(a)(1); he received a sentence of 185 months' imprisonment on November 28, 2005. [Doc 59, Doc 63] Harden did not appeal or file a collateral attack. On March 31, 2008, this Court reduced Harden's sentence to 151 months pursuant to Amendment 706 and 18 U.S.C. §3582(c)(2). [Doc 68]

This Court's March 31, 2008 §3582(c)(2) order did not trigger the time for filing a §2255 motion, which expired long ago. Section §2255 runs its one year limitations period from the later of four events, including "the date on which the judgment of conviction becomes final." See 28 U.S.C. §2251(f)(1); see also Fed. R. Crim. P.32(k)(1)(describing what the judgment of conviction entails). "Notwithstanding the fact that a sentence to imprisonment can subsequently be . . . modified pursuant to the provisions of [18 U.S.C. §3582(c)(2)], a judgment of conviction that includes such a sentence constitutes a final judgment for all other purposes." 18 U.S.C. §3582(b)(1); cf. United States v. Moreno, 421 F.3d 1217, 1220 (11th Cir. 2005)(stating that §3582(c)(2) only gives district courts the discretion to reduce a sentence upon a retroactively applicable guideline amendment, not power to conduct a *de novo* resentencing). Thus, the Court **DENIES** Harden's motion for an extension of time.

SO ORDERED this 18 day of May, 2009.



HON. B. AVANT EDENFIELD
UNITED STATES DISTRICT JUDGE